

AMENDED IN SENATE JANUARY 5, 2006

AMENDED IN SENATE MAY 5, 2005

SENATE BILL

No. 1044

Introduced by Senator Hollingsworth

February 22, 2005

An act to amend Sections 209, 220, 290.3, 290.46, 667.51, 667.61, 667.71, 3000, 3000.7, and 3001 of, and to add Section 288.3 to the Penal Code, and to amend Section 6600 of the Welfare and Institutions Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1044, as amended, Hollingsworth. Sex offenders.

Existing law makes it an offense for any person to kidnap or carry away any individual for the purpose of committing any of a list of certain crimes.

This bill would add to list of crimes, certain sex offenses committed in concert, lewd and lascivious acts, as specified, and acts of sexual penetration, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law provides that any person who assaults another with the intent to commit any of certain listed offenses is punishable by imprisonment in the state prison for 2, 4, or 6 years.

This bill would provide that any person who, in the commission of a first degree burglary, assaults another with the intent to commit any of those specified offenses would be punishable by imprisonment in the state prison for life, with the possibility of parole.

By creating a new crime, this bill would impose a state-mandated local program.

Existing law defines various sexual offenses wherein the victim is a minor.

This bill would provide that every person who contacts or communicates with a minor, or attempts to contact or communicate with a minor, who knows or reasonably should know that the person is a minor, with intent to commit any of certain specified sex offenses involving the minor would be punishable by imprisonment in the state prison for the term prescribed for an attempt to commit the intended offense. The bill would provide a 5-year enhancement for persons with a prior conviction for this offense.

By creating a new crime, this bill would impose a state-mandated local program.

Existing law provides that every person convicted of any of a list of specified offenses shall, in addition to any imprisonment, fine, or both, be punished by an additional fine of \$200 upon a first conviction, and \$300 upon a subsequent conviction, as specified, for use in DNA testing and other purposes as specified. Existing law requires these moneys to be transferred by the counties for deposit in the state's General Fund.

This bill would increase the amount of the fines to \$300 and \$500, respectively. The bill would require transfer of some of these moneys to the Department of Corrections to defray the cost of Global Positioning System monitoring for certain parolees, and to defray costs associated with posting certain information relative to sex offenders on a department Internet Web site.

Existing law requires the Department of Justice to make specified information about certain sex offenders available to the public via an Internet Web site, as specified. This information includes the home address of specified offenders and the community of residence and ZIP Code of others. Existing law provides that certain offenders with less serious sexual offense histories, as specified, may apply to the department for exclusion from the Internet Web site.

This bill would require that the home address of all offenders listed in the Internet Web site be made available. This bill would also remove provisions that allow some offenders to apply for exclusion from the Internet Web site. This bill would also add persons who have been convicted of various offenses involving obscene matter depicting a minor or matter depicting a minor engaging in or simulating sexual conduct, and sexual exploitation of a child to these provisions.

Existing law provides that any person convicted of any of certain specified lewd and lascivious acts shall receive an enhancement of 5 years imprisonment in the state prison, provided however that the enhancement does not apply for a prison term served prior to a “wash out” period of 10 years in which the defendant remained free of both prison custody, and the commission of an offense resulting in a felony conviction.

This bill would delete the “wash out” provisions. The bill would make other technical conforming changes.

Existing law provides that any person convicted of any of certain offenses under one or more specified circumstances or 2 or more of certain other specified circumstances is punishable by imprisonment in the state prison for life, and shall not be eligible for parole for 25 years, subject to exception. Existing law also provides that any person convicted of any of certain other offenses under one of certain other specified circumstances is punishable by imprisonment in the state prison for life, and shall not be eligible for parole for 15 years, subject to exception. Existing law defines certain of these offenses as being committed by force, violence, duress, menace, or fear, as specified. Existing law limits the amount by which a sentence under these provisions may be reduced for credits to no more than 15% and requires at least 85% of the 25- or 15- year minimum term be served.

This bill would recast those provisions to make the punishment 25 years to life and 15 years to life imprisonment, respectively. The bill would add certain other specified sex offenses the list of specified offenses for certain purposes in the described sentencing scheme. The bill would delete the requirement that certain offenses be committed by force, violence, duress, menace, or fear, as specified. The bill would delete the provisions limiting reducing the term by no more than 15% and requiring that at least 85% of the 25- or 15- year minimum term be served.

Existing law defines “habitual sexual offender” in part as a person has previously been convicted of one or more of certain specified sex offenses, and whose current conviction is for one of those offenses. Existing law provides that the current conviction is punishable by imprisonment in the state prison for 25 years to life. Existing law defines certain of these offenses as being committed by force, violence, duress, menace, or fear, as specified. Existing law limits the amount by which a sentence under these provisions may be reduced for credits to no more than 15% and requires at least 85% of the 25

minimum term be served. Other provisions of existing law authorize a court to strike prior convictions from consideration in calculating enhanced sentences based on prior convictions.

The bill would add certain other specified sex offenses the list of specified offenses for certain purposes in the described sentencing scheme. The bill would delete the requirement that certain offenses be committed by force, violence, duress, menace, or fear, as specified. The bill would delete the provisions limiting reducing the term by no more than 15% and requiring that at least 85% of the 25-year minimum term be served. This bill would prohibit a court from striking any allegation, admission, or finding of any prior conviction for specified offenses for purposes of the these provisions. The bill would also prohibit probation and suspension of a sentence for convictions under these provisions.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law provides that the term of parole for persons receiving a life sentence for certain sex offenses is 5 years, and may be subject to an additional 5 year period of parole, under specified circumstances.

This bill would recast those provisions to provide a parole period of 10 years, and that in no case may a person subject to the 10 year probation period be retained under parole in custody for more than 15 years for the date of initial parole.

Existing law generally regulates the conditions of parole.

This bill would provide that every inmate convicted of a “registerable sex offense” as defined who is committed to prison and then released on parole would be required to be monitored by a Global Positioning System for the term of parole, as specified. The bill would also require the parolee to pay for the costs of monitoring, subject to exceptions.

Existing law generally provides for discharge from parole.

This bill would provide that in the case of a person subject to a 10-year term of parole for specified sex offenses, when the parolee has been on parole continuously for 6 years since release from confinement, the Board of Prison Terms would be required to discharge the parolee, unless it is determined for good cause by the board that the parolee should be retained on parole.

Existing law defines “sexually violent predator” and as a person who has been convicted of a sexually violet offense against 2 or more victims and who has been diagnosed with a mental disorder that

makes the person a danger to the health and safety of others, as specified. Existing law also defines “sexually violent offense” for purposes of these provisions.

This bill would include within that definition, a conviction where one or more victims was under 14 years of age at the time of the offense. The bill would add to the list of sexually violent offenses, kidnapping committed with the intent to commit certain other specified sex offenses.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 209 of the Penal Code is amended to
2 read:

3 209. (a) Any person who seizes, confines, inveigles, entices,
4 decoys, abducts, conceals, kidnaps or carries away another
5 person by any means whatsoever with intent to hold or detain, or
6 who holds or detains, that person for ransom, reward or to
7 commit extortion or to exact from another person any money or
8 valuable thing, or any person who aids or abets any such act, is
9 guilty of a felony, and upon conviction thereof, shall be punished
10 by imprisonment in the state prison for life without possibility of
11 parole in cases in which any person subjected to any such act
12 suffers death or bodily harm, or is intentionally confined in a
13 manner which exposes that person to a substantial likelihood of
14 death, or shall be punished by imprisonment in the state prison
15 for life with the possibility of parole in cases where no such
16 person suffers death or bodily harm.

17 (b) (1) Any person who kidnaps or carries away any
18 individual to commit robbery, rape, spousal rape, oral copulation,
19 sodomy, or any violation of Section 264.1, 288, or 289, shall be
20 punished by imprisonment in the state prison for life with
21 possibility of parole.

1 (2) This subdivision shall only apply if the movement of the
2 victim is beyond that merely incidental to the commission of, and
3 increases the risk of harm to the victim over and above that
4 necessarily present in, the intended underlying offense.

5 (c) In all cases in which probation is granted, the court shall,
6 except in unusual cases where the interests of justice would best
7 be served by a lesser penalty, require as a condition of the
8 probation that the person be confined in the county jail for 12
9 months. If the court grants probation without requiring the
10 defendant to be confined in the county jail for 12 months, it shall
11 specify its reason or reasons for imposing a lesser penalty.

12 (d) Subdivision (b) shall not be construed to supersede or
13 affect Section 667.61. A person may be charged with a violation
14 of subdivision (b) and Section 667.61. However, a person may
15 not be punished under subdivision (b) and Section 667.61 for the
16 same act that constitutes a violation of both subdivision (b) and
17 Section 667.61.

18 SEC. 2. Section 220 of the Penal Code is amended to read:

19 220. (a) Except as provided in subdivision (b), any person
20 who assaults another with intent to commit mayhem, rape,
21 sodomy, oral copulation, or any violation of Section 264.1, 288
22 or 289 is punishable by imprisonment in the state prison for two,
23 four, or six years.

24 (b) Any person who, in the commission of a burglary of the
25 first degree, as defined in Section 460, assaults another with the
26 intent to commit rape, sodomy, oral copulation, or any violation
27 of Section 264.1, 288, or 289, is punishable by imprisonment in
28 the state prison for life with the possibility of parole.

29 SEC. 3. Section 288.3 is added to the Penal Code, to read:

30 288.3. (a) Every person who contacts or communicates with
31 a minor, or attempts to contact or communicate with a minor,
32 who knows or reasonably should know that the person is a minor,
33 with intent to commit an offense specified in Section 207, 209,
34 261, 264.1, 273a, 286, 288, 288a, 288.2, 289, 311.1, 311.2, 311.4
35 or 311.11 involving the minor shall be punished by imprisonment
36 in the state prison for the term prescribed for an attempt to
37 commit the intended offense.

38 (b) As used in this section, “contacts or communicates with”
39 shall include direct and indirect contact or communication that
40 may be achieved personally or by use of an agent or agency, any

1 print medium, any postal service, a common carrier or
2 communication common carrier, any electronic communications
3 system, or any telecommunications, wire, computer, or radio
4 communications device or system.

5 (c) A person convicted of a violation of subdivision (a) who
6 has previously been convicted of a violation of subdivision (a)
7 shall be punished by an additional and consecutive term of
8 imprisonment in the state prison for five years.

9 SEC. 4. Section 290.3 of the Penal Code is amended to read:

10 290.3. (a) Every person who is convicted of any offense
11 specified in subdivision (a) of Section 290 shall, in addition to
12 any imprisonment or fine, or both, imposed for violation of the
13 underlying offense, be punished by a fine of three hundred
14 dollars (\$300) upon the first conviction or a fine of five hundred
15 dollars (\$500) upon the second and each subsequent conviction,
16 unless the court determines that the defendant does not have the
17 ability to pay the fine.

18 An amount equal to all fines collected pursuant to this
19 subdivision during the preceding month upon conviction of, or
20 upon the forfeiture of bail by, any person arrested for, or
21 convicted of, committing an offense specified in subdivision (a)
22 of Section 290, shall be transferred once a month by the county
23 treasurer to the Controller for deposit in the General Fund.
24 Moneys deposited in the General Fund pursuant to this
25 subdivision shall be transferred by the Controller as provided in
26 subdivision (b).

27 (b) Except as provided in subdivision (d), out of the moneys
28 deposited pursuant to subdivision (a) as a result of second and
29 subsequent convictions of Section 290, one-third shall first be
30 transferred to the Department of Justice Sexual Habitual
31 Offender Fund, as provided in paragraph (1) of this subdivision.
32 Out of the remainder of all moneys deposited pursuant to
33 subdivision (a), 50 percent shall be transferred to the Department
34 of Justice Sexual Habitual Offender Fund, as provided in
35 paragraph (1), 25 percent shall be transferred to the Department
36 of Justice DNA Testing Fund, as provided in paragraph (2), and
37 25 percent shall be allocated equally to counties that maintain a
38 local DNA testing laboratory, as provided in paragraph (3).

39 (1) Those moneys so designated shall be transferred to the
40 Department of Justice Sexual Habitual Offender Fund created

1 pursuant to paragraph (5) of subdivision (b) of Section 11170
2 and, when appropriated by the Legislature, shall be used for the
3 purposes of Chapter 9.5 (commencing with Section 13885) and
4 Chapter 10 (commencing with Section 13890) of Title 6 of Part 4
5 for the purpose of monitoring, apprehending, and prosecuting
6 sexual habitual offenders.

7 (2) Those moneys so designated shall be directed to the
8 Department of Justice and transferred to the Department of
9 Justice DNA Testing Fund, which is hereby created, for the
10 exclusive purpose of testing deoxyribonucleic acid (DNA)
11 samples for law enforcement purposes. The moneys in that fund
12 shall be available for expenditure upon appropriation by the
13 Legislature.

14 (3) Those moneys so designated shall be allocated equally and
15 distributed quarterly to counties that maintain a local DNA
16 testing laboratory. Before making any allocations under this
17 paragraph, the Controller shall deduct the estimated costs that
18 will be incurred to set up and administer the payment of these
19 funds to the counties. Any funds allocated to a county pursuant to
20 this paragraph shall be used by that county for the exclusive
21 purpose of testing DNA samples for law enforcement purposes.

22 (c) Notwithstanding any other provision of this section, the
23 Department of Corrections or the Department of the Youth
24 Authority may collect a fine imposed pursuant to this section
25 from a person convicted of a violation of any offense listed in
26 subdivision (a) of Section 290, that results in incarceration in a
27 facility under the jurisdiction of the Department of Corrections or
28 the Department of the Youth Authority. All moneys collected by
29 the Department of Corrections or the Department of the Youth
30 Authority under this subdivision shall be transferred, once a
31 month, to the Controller for deposit in the General Fund, as
32 provided in subdivision (a), for transfer by the Controller, as
33 provided in subdivision (b).

34 (d) An amount equal to one hundred dollars (\$100) for every
35 fine imposed pursuant to subdivision (a) in excess of one
36 hundred dollars (\$100) shall be transferred to the Department of
37 Corrections, upon appropriation by the Legislature, to defray the
38 cost of the Global Positioning System used to monitor high-risk
39 and serious and dangerous sex offender parolees, pursuant to
40 Section 3000.07. Any remaining fine revenue under this

1 subdivision shall be transferred to the Department of Justice and,
2 upon appropriation by the Legislature, may be used to defray
3 costs associated with the creation and maintenance of the
4 Megan's Law Internet Web site, pursuant to Section 294.4.

5 SEC. 5. ~~Section 290.46 of the Penal Code is amended to read:~~

6 ~~290.46. (a) On or before the dates specified in this section,~~
7 ~~the Department of Justice shall make available information~~
8 ~~concerning persons who are required to register pursuant to~~
9 ~~Section 290 to the public via an Internet Web site as specified in~~
10 ~~this section. The department shall update the Web site on an~~
11 ~~ongoing basis. All information identifying the victim by name,~~
12 ~~birth date, address, or relationship to the registrant shall be~~
13 ~~excluded from the Web site. The name or address of the person's~~
14 ~~employer and the listed person's criminal history other than the~~
15 ~~specific crimes for which the person is required to register shall~~
16 ~~not be included on the Web site. The Web site shall be translated~~
17 ~~into languages other than English as determined by the~~
18 ~~department.~~

19 ~~(b) (1) On or before July 1, 2005, with respect to a person~~
20 ~~who has been convicted of the commission or the attempted~~
21 ~~commission of any of the offenses listed in this subdivision or the~~
22 ~~statutory predecessors of any of these offenses, or any offense~~
23 ~~which, if committed or attempted to be committed in this state,~~
24 ~~would have been punishable as one or more of the offenses listed~~
25 ~~in this subdivision, the Department of Justice shall make~~
26 ~~available to the public via the Internet Web site his or her names~~
27 ~~and known aliases, a photograph, a physical description,~~
28 ~~including gender and race, date of birth, criminal history, the~~
29 ~~address at which the person resides, and any other information~~
30 ~~that the Department of Justice deems relevant, but not the~~
31 ~~information excluded pursuant to subdivision (a).~~

32 ~~(2) This subdivision shall apply to the following offenses:~~

33 ~~(A) Subdivision (b) of Section 207.~~

34 ~~(B) Subdivision (b) of Section 209, except kidnapping to~~
35 ~~commit robbery.~~

36 ~~(C) Section 220, except assault to commit mayhem.~~

37 ~~(D) Subdivision (a) of Section 243.4, provided the offense is a~~
38 ~~felony.~~

39 ~~(E) Section 647.6.~~

40 ~~(F) Section 266, provided the offense is a felony.~~

1 ~~(G) Section 266e, provided the offense is a felony.~~

2 ~~(H) Section 266j.~~

3 ~~(I) Section 267.~~

4 ~~(J) Paragraph (1), (2), (3), (4), or (6) of subdivision (a) of~~
5 ~~Section 261.~~

6 ~~(K) Section 264.1.~~

7 ~~(L) Section 269.~~

8 ~~(M) Paragraph (2) of subdivision (b), or subdivision (c), (d),~~
9 ~~(f), (g), or (i) of Section 286.~~

10 ~~(N) Subdivision (a), (b), or (c) of Section 288, provided that~~
11 ~~the offense is a felony.~~

12 ~~(O) Paragraph (2) of subdivision (b), or subdivision (c), (d),~~
13 ~~(f), (g), or (i) of Section 288a.~~

14 ~~(P) Section 288.5.~~

15 ~~(Q) Subdivision (a), (b), (d), (c), (i), or (j) of Section 289.~~

16 ~~(R) Section 311.1.~~

17 ~~(S) Subdivisions (b), (c), and (d) of Section 311.2.~~

18 ~~(T) Section 311.3.~~

19 ~~(U) Section 311.4.~~

20 ~~(V) Section 311.10.~~

21 ~~(W) Section 311.11.~~

22 ~~(X) Section 647.6.~~

23 ~~(3) This subdivision shall also apply to any person who has~~
24 ~~ever been adjudicated a sexually violent predator as defined in~~
25 ~~Section 6600 of the Welfare and Institutions Code.~~

26 ~~(e) The Department of Justice shall make a reasonable effort to~~
27 ~~provide notification to persons who have been convicted of the~~
28 ~~commission or attempted commission of an offense specified in~~
29 ~~subdivision (b), (c), or (d), that on or before July 1, 2005, the~~
30 ~~department is required to make information about him or her~~
31 ~~available to the public via an Internet Web site as specified in~~
32 ~~this section.~~

33 ~~(d) Notwithstanding Section 6254.5 of the Government Code,~~
34 ~~disclosure of information pursuant to this section is not a waiver~~
35 ~~of exemptions under Chapter 3.5 (commencing with Section~~
36 ~~6250) of Title 1 of Division 7 of the Government Code and does~~
37 ~~not affect other statutory restrictions on disclosure in other~~
38 ~~situations.~~

39 ~~(e) (1) Any person who uses information disclosed pursuant~~
40 ~~to the Internet Web site to commit a misdemeanor shall be~~

1 subject to, in addition to any other penalty or fine imposed, a fine
2 of not less than ten thousand dollars (\$10,000) and not more than
3 fifty thousand dollars (\$50,000).

4 (2) Any person who uses information disclosed pursuant to the
5 Internet Web site to commit a felony shall be punished, in
6 addition and consecutive to any other punishment, by a five-year
7 term of imprisonment in the state prison.

8 (f) Any person who is required to register pursuant to Section
9 290 who enters the Web site is punishable by a fine not
10 exceeding one thousand dollars (\$1,000), imprisonment in a
11 county jail for a period not to exceed six months, or by both that
12 fine and imprisonment.

13 (g) (1) A person is authorized to use information disclosed
14 pursuant to this section only to protect a person at risk.

15 (2) Except as authorized under paragraph (1) or any other
16 provision of law, use of any information that is disclosed
17 pursuant to this section for purposes relating to any of the
18 following is prohibited:

19 (A) Health insurance.

20 (B) Insurance.

21 (C) Loans.

22 (D) Credit.

23 (E) Employment.

24 (F) Education, scholarships, or fellowships.

25 (G) Housing or accommodations.

26 (H) Benefits, privileges, or services provided by any business
27 establishment.

28 (3) This section shall not affect authorized access to, or use of,
29 information pursuant to, among other provisions, Sections 11105
30 and 11105.3, Section 8808 of the Family Code, Sections 777.5
31 and 14409.2 of the Financial Code, Sections 1522.01 and
32 1596.871 of the Health and Safety Code, and Section 432.7 of
33 the Labor Code.

34 (4) (A) Any use of information disclosed pursuant to this
35 section for purposes other than those provided by paragraph (1)
36 or in violation of paragraph (2) shall make the user liable for the
37 actual damages, and any amount that may be determined by a
38 jury or a court sitting without a jury, not exceeding three times
39 the amount of actual damage, and not less than two hundred fifty

1 dollars (\$250), and attorney's fees, exemplary damages, or a civil
2 penalty not exceeding twenty-five thousand dollars (\$25,000).

3 ~~(B) Whenever there is reasonable cause to believe that any~~
4 ~~person or group of persons is engaged in a pattern or practice of~~
5 ~~misuse of the information available via the Internet Web site in~~
6 ~~violation of paragraph (2), the Attorney General, any district~~
7 ~~attorney, or city attorney, or any person aggrieved by the misuse~~
8 ~~is authorized to bring a civil action in the appropriate court~~
9 ~~requesting preventive relief, including an application for a~~
10 ~~permanent or temporary injunction, restraining order, or other~~
11 ~~order against the person or group of persons responsible for the~~
12 ~~pattern or practice of misuse. The foregoing remedies shall be~~
13 ~~independent of any other remedies or procedures that may be~~
14 ~~available to an aggrieved party under other provisions of law,~~
15 ~~including Part 2 (commencing with Section 43) of Division 1 of~~
16 ~~the Civil Code.~~

17 ~~(h) On or before July 1, 2006, and every year thereafter, the~~
18 ~~Department of Justice shall make a report to the Legislature~~
19 ~~concerning the operation of this section.~~

20 ~~(i) The Department of Justice and its employees shall be~~
21 ~~immune from liability for good faith conduct under this section.~~

22 *SEC. 5. Section 290.46 of the Penal Code is amended to*
23 *read:*

24 290.46. (a) On or before the dates specified in this section,
25 the Department of Justice shall make available information
26 concerning persons who are required to register pursuant to
27 Section 290 to the public via an Internet Web site as specified in
28 this section. The department shall update the Internet Web site on
29 an ongoing basis. All information identifying the victim by name,
30 birth date, address, or relationship to the registrant shall be
31 excluded from the Internet Web site. The name or address of the
32 person's employer and the listed person's criminal history other
33 than the specific crimes for which the person is required to
34 register shall not be included on the Internet Web site. The
35 Internet Web site shall be translated into languages other than
36 English as determined by the department.

37 (b) (1) On or before July 1, 2005, with respect to a person
38 who has been convicted of the commission or the attempted
39 commission of any of the offenses listed in, or who is described
40 in, paragraph (2), the Department of Justice shall make available

to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(B) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) *Section 220, except assault to commit mayhem.*

(D) *Subdivision (a) of Section 243.4, provided the offense is a felony.*

(E) Paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261.

~~(F)~~

(F) Section 264.1.

(G) *Section 266, provided the offense is a felony.*

(H) *Section 266c, provided the offense is a felony.*

(I) *Section 266j.*

(J) *Section 267.*

~~(K)~~

(K) Section 269.

~~(L) Subdivision~~

(L) *Paragraph (20) of subdivision (b), or subdivision (c), or (d), (f), (g), or (i) of Section 286.*

~~(M)~~

(M) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

~~(N) Subdivision~~

(N) *Paragraph (2) of subdivision (b), or subdivision (c), or (d), (f), (g), or (i) of Section 288a.*

~~(O)~~

(O) Section 288.5.

~~(P)~~

(P) Subdivision (a), (b), (d), (e), (f), or (j) of Section 289.

(Q) *Section 311.1.*

(R) *Subdivisions (b), (c), and (d) of Section 311.2.*

1 (S) Section 311.3.

2 (T) Section 311.4.

3 (U) Section 311.10.

4 (V) Section 311.11.

5 (W) Section 647.6.

6 ~~(K) Any~~

7 (X) This subdivision shall also apply to any person who has
8 ever been adjudicated a sexually violent predator as defined in
9 Section 6600 of the Welfare and Institutions Code.

10 ~~(e) (1) On or before July 1, 2005, with respect to a person~~
11 ~~who has been convicted of the commission or the attempted~~
12 ~~commission of any of the offenses listed in paragraph (2), the~~
13 ~~Department of Justice shall make available to the public via the~~
14 ~~Internet Web site his or her name and known aliases, a~~
15 ~~photograph, a physical description, including gender and race,~~
16 ~~date of birth, criminal history, the community of residence and~~
17 ~~ZIP Code in which the person resides or the county in which the~~
18 ~~person is registered as a transient, and any other information that~~
19 ~~the Department of Justice deems relevant, but not the information~~
20 ~~excluded pursuant to subdivision (a). On or before July 1, 2006,~~
21 ~~the Department of Justice shall determine whether any person~~
22 ~~convicted of an offense listed in paragraph (2) also has one or~~
23 ~~more prior or subsequent convictions of an offense listed in~~
24 ~~paragraph (2) of subdivision (a) of Section 290, and, for those~~
25 ~~persons, the Department of Justice shall make available to the~~
26 ~~public via the Internet Web site the address at which the person~~
27 ~~resides. However, the address at which the person resides shall~~
28 ~~not be disclosed until a determination is made that the person is,~~
29 ~~by virtue of his or her additional prior or subsequent conviction~~
30 ~~of an offense listed in paragraph (2) of subdivision (a) of Section~~
31 ~~290, subject to this subdivision.~~

32 ~~(2) This subdivision shall apply to the following offenses:~~

33 ~~(A) Section 220, except assault to commit mayhem.~~

34 ~~(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.~~

35 ~~(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or~~
36 ~~(i), of Section 286.~~

37 ~~(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or~~
38 ~~(i), of Section 288a.~~

39 ~~(E) Subdivision (b), (d), (e), or (i) of Section 289.~~

~~(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.~~

~~(2) This subdivision shall apply to the following offenses and offenders:~~

~~(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.~~

~~(B) Section 266, provided that the offense is a felony.~~

~~(C) Section 266e, provided that the offense is a felony.~~

~~(D) Section 266j.~~

~~(E) Section 267.~~

~~(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.~~

~~(G) Section 647.6.~~

~~(H) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (c). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.~~

~~(c) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this~~

1 ~~subdivision, the department shall grant the exclusion and no~~
2 ~~information concerning the person shall be made available via~~
3 ~~the Internet Web site described in this section. He or she bears~~
4 ~~the burden of proving the facts that make him or her eligible for~~
5 ~~exclusion from the Internet Web site. However, a person who has~~
6 ~~filed for or been granted an exclusion from the Internet Web site~~
7 ~~is not relieved of his or her duty to register as a sex offender~~
8 ~~pursuant to Section 290 nor from any otherwise applicable~~
9 ~~provision of law.~~

10 ~~(2) This subdivision shall apply to the following offenses:~~

11 ~~(A) A felony violation of subdivision (a) of Section 243.4.~~

12 ~~(B) Section 647.6, provided the offense is a misdemeanor.~~

13 ~~(C) (i) An offense for which the offender successfully~~
14 ~~completed probation, provided that the offender submits to the~~
15 ~~department a certified copy of a probation report, presentencing~~
16 ~~report, report prepared pursuant to Section 288.1, or other official~~
17 ~~court document that clearly demonstrates both of the following:~~

18 ~~(I) The offender was the victim's parent, stepparent, sibling, or~~
19 ~~grandparent.~~

20 ~~(II) The crime did not involve either oral copulation or~~
21 ~~penetration of the vagina or rectum of either the victim or the~~
22 ~~offender by the penis of the other or by any foreign object.~~

23 ~~(ii) An offense for which the offender is on probation at the~~
24 ~~time of his or her application, provided that the offender submits~~
25 ~~to the department a certified copy of a probation report,~~
26 ~~presentencing report, report prepared pursuant to Section 288.1,~~
27 ~~or other official court document that clearly demonstrates both of~~
28 ~~the following:~~

29 ~~(I) The offender was the victim's parent, stepparent, sibling, or~~
30 ~~grandparent.~~

31 ~~(II) The crime did not involve either oral copulation or~~
32 ~~penetration of the vagina or rectum of either the victim or the~~
33 ~~offender by the penis of the other or by any foreign object.~~

34 ~~(iii) If, subsequent to his or her application, the offender~~
35 ~~commits a violation of probation resulting in his or her~~
36 ~~incarceration in county jail or state prison, his or her exclusion,~~
37 ~~or application for exclusion, from the Internet Web site shall be~~
38 ~~terminated.~~

39 ~~(iv) For the purposes of this subparagraph, "successfully~~
40 ~~completed probation" means that during the period of probation~~

1 ~~the offender neither received additional county jail or state prison~~
2 ~~time for a violation of probation nor was convicted of another~~
3 ~~offense resulting in a sentence to county jail or state prison.~~

4 ~~(f)~~

5 (c) The Department of Justice shall make a reasonable effort to
6 provide notification to persons who have been convicted of the
7 commission or attempted commission of an offense specified in
8 subdivision (b), (c), or (d), that on or before July 1, 2005, the
9 department is required to make information about specified sex
10 offenders available to the public via an Internet Web site as
11 specified in this section. ~~The Department of Justice shall also~~
12 ~~make a reasonable effort to provide notice that some offenders~~
13 ~~are eligible to apply for exclusion from the Internet Web site.~~

14 ~~(g)~~

15 (d) (1) A designated law enforcement entity, as defined in
16 subdivision (f) of Section 290.45, may make available
17 information concerning persons who are required to register
18 pursuant to Section 290 to the public via an Internet Web site as
19 specified in paragraph (2).

20 (2) The law enforcement entity may make available by way of
21 an Internet Web site the information described in subdivision (c)
22 if it determines that the public disclosure of the information
23 about a specific offender by way of the entity's Internet Web site
24 is necessary to ensure the public safety based upon information
25 available to the entity concerning that specific offender.

26 (3) The information that may be provided pursuant to this
27 subdivision may include the information specified in subdivision
28 (b) of Section 290.45. However, that offender's address may not
29 be disclosed unless he or she is a person whose address is on the
30 Department of Justice's Internet Web site pursuant to subdivision
31 (b) or (c).

32 ~~(h)~~

33 (e) For purposes of this section, "offense" includes the
34 statutory predecessors of that offense, or any offense committed
35 in another jurisdiction that, if committed or attempted to be
36 committed in this state, would have been punishable in this state
37 as an offense listed in subparagraph (A) of paragraph (2) of
38 subdivision (a) of Section 290.

39 ~~(i)~~

1 (f) Notwithstanding Section 6254.5 of the Government Code,
2 disclosure of information pursuant to this section is not a waiver
3 of exemptions under Chapter 3.5 (commencing with Section
4 6250) of Title 1 of Division 7 of the Government Code and does
5 not affect other statutory restrictions on disclosure in other
6 situations.

7 ~~(j)~~

8 (g) (1) Any person who uses information disclosed pursuant
9 to this section to commit a misdemeanor shall be subject to, in
10 addition to any other penalty or fine imposed, a fine of not less
11 than ten thousand dollars (\$10,000) and not more than fifty
12 thousand dollars (\$50,000).

13 (2) Any person who uses information disclosed pursuant to
14 this section to commit a felony shall be punished, in addition and
15 consecutive to any other punishment, by a five-year term of
16 imprisonment in the state prison.

17 ~~(k)~~

18 (h) Any person who is required to register pursuant to Section
19 290 who enters an Internet Web site established pursuant to this
20 section shall be punished by a fine not exceeding one thousand
21 dollars (\$1,000), imprisonment in a county jail for a period not to
22 exceed six months, or by both that fine and imprisonment.

23 (i) (1) A person is authorized to use information disclosed
24 pursuant to this section only to protect a person at risk.

25 (2) Except as authorized under paragraph (1) or any other
26 provision of law, use of any information that is disclosed
27 pursuant to this section for purposes relating to any of the
28 following is prohibited:

29 (A) Health insurance.

30 (B) Insurance.

31 (C) Loans.

32 (D) Credit.

33 (E) Employment.

34 (F) Education, scholarships, or fellowships.

35 (G) Housing or accommodations.

36 (H) Benefits, privileges, or services provided by any business
37 establishment.

38 (3) This section shall not affect authorized access to, or use of,
39 information pursuant to, among other provisions, Sections 11105
40 and 11105.3, Section 8808 of the Family Code, Sections 777.5

1 and 14409.2 of the Financial Code, Sections 1522.01 and
2 1596.871 of the Health and Safety Code, and Section 432.7 of
3 the Labor Code.

4 (4) (A) Any use of information disclosed pursuant to this
5 section for purposes other than those provided by paragraph (1)
6 or in violation of paragraph (2) shall make the user liable for the
7 actual damages, and any amount that may be determined by a
8 jury or a court sitting without a jury, not exceeding three times
9 the amount of actual damage, and not less than two hundred fifty
10 dollars (\$250), and attorney's fees, exemplary damages, or a civil
11 penalty not exceeding twenty-five thousand dollars (\$25,000).

12 (B) Whenever there is reasonable cause to believe that any
13 person or group of persons is engaged in a pattern or practice of
14 misuse of the information available via an Internet Web site
15 established pursuant to this section in violation of paragraph (2),
16 the Attorney General, any district attorney, or city attorney, or
17 any person aggrieved by the misuse is authorized to bring a civil
18 action in the appropriate court requesting preventive relief,
19 including an application for a permanent or temporary injunction,
20 restraining order, or other order against the person or group of
21 persons responsible for the pattern or practice of misuse. The
22 foregoing remedies shall be independent of any other remedies or
23 procedures that may be available to an aggrieved party under
24 other provisions of law, including Part 2 (commencing with
25 Section 43) of Division 1 of the Civil Code.

26 ~~(m)~~

27 (i) The public notification provisions of this section are
28 applicable to every person described in this section, without
29 regard to when his or her crimes were committed or his or her
30 duty to register pursuant to Section 290 arose, and to every
31 offense described in this section, regardless of when it was
32 committed.

33 ~~(n)~~

34 (j) On or before July 1, 2006, and every year thereafter, the
35 Department of Justice shall make a report to the Legislature
36 concerning the operation of this section.

37 ~~(o)~~

38 (k) A designated law enforcement entity and its employees
39 shall be immune from liability for good faith conduct under this
40 section.

1 SEC. 6. Section 667.51 of the Penal Code is amended to read:

2 667.51. (a) Any person who is convicted of violating Section
3 288 shall receive a five-year enhancement for a prior conviction
4 of an offense specified in subdivision (b).

5 (b) Section 261, 264.1, 285, 286, 288, 288a, 288.5, or 289, or
6 any offense committed in another jurisdiction that includes all of
7 the elements of any of the offenses specified in this subdivision.

8 (c)

9 A violation of Section 288 by a person who has been
10 previously convicted two or more times of an offense specified in
11 subdivision (b) is punishable by imprisonment in the state prison
12 for 15 years to life.

13 SEC. 7. Section 667.61 of the Penal Code is amended to read:

14 667.61. (a) Any person who is convicted of an offense
15 specified in subdivision (c) under one or more of the
16 circumstances specified in subdivision (d) or under two or more
17 of the circumstances specified in subdivision (e) shall be
18 punished by imprisonment in the state prison for a term of 25
19 years to life.

20 (b) Except as provided in subdivision (a), a person who is
21 convicted of an offense specified in subdivision (c) under one of
22 the circumstances specified in subdivision (e) shall be punished
23 by imprisonment in the state prison for a term of 15 years to life.

24 (c) This section shall apply to any of the following offenses:

25 (1) Rape, in violation of paragraph (2) of subdivision (a) of
26 Section 261.

27 (2) Spousal rape, in violation of paragraph (1) of subdivision
28 (a) of Section 262.

29 (3) Rape, spousal rape, or sexual penetration in violation of
30 Section 264.1.

31 (4) A lewd or lascivious act, in violation of subdivision (b) of
32 Section 288.

33 (5) Sexual penetration, in violation of subdivision (a) of
34 Section 289.

35 (6) Sodomy in violation of paragraph (2) or (3) of subdivision
36 (c) or of subdivision (d) of Section 286.

37 (7) Oral copulation, in violation of paragraph (2) or (3) of
38 subdivision (c), or of subdivision (d) of Section 288a.

39 (8) A lewd or lascivious act in violation of subdivision (a) of
40 Section 288.

1 (9) Continuous sexual abuse of a child, in violation of Section
2 288.5.

3 (d) The following circumstances shall apply to the offenses
4 specified in subdivision (c):

5 (1) The defendant has been previously convicted of an offense
6 specified in subdivision (c), including an offense committed in
7 another jurisdiction that includes all of the elements of an offense
8 specified in subdivision (c).

9 (2) The defendant kidnapped the victim of the present offense
10 and the movement of the victim substantially increased the risk
11 of harm to the victim over and above that level of risk necessarily
12 inherent in the underlying offense in subdivision (c).

13 (3) The defendant inflicted aggravated mayhem or torture on
14 the victim or another person in the commission of the present
15 offense in violation of Section 205 or 206.

16 (4) The defendant committed the present offense during the
17 commission of a burglary of the first degree, as defined in
18 subdivision (a) of Section 460, with intent to commit an offense
19 specified in subdivision (c).

20 (5) The defendant committed the present offense in violation
21 of Section 264.1, subdivision (d) of Section 286, or subdivision
22 (d) of Section 288a, and in the commission of that offense, any
23 person committed any act described in paragraph (2), (3), or (4)
24 of this subdivision.

25 (e) The following circumstances shall apply to the offenses
26 specified in subdivision (c):

27 (1) Except as provided in paragraph (2) of subdivision (d), the
28 defendant kidnapped the victim of the present offense in
29 violation of Section 207, 209, or 209.5.

30 (2) Except as provided in paragraph (4) of subdivision (d), the
31 defendant committed the present offense during the commission
32 of a burglary in violation of Section 459.

33 (3) The defendant personally inflicted great bodily injury on
34 the victim or another person in the commission of the present
35 offense in violation of Section 12022.53, 12022.7, or 12022.8.

36 (4) The defendant personally used a dangerous or deadly
37 weapon or firearm in the commission of the present offense in
38 violation of Section 12022, 12022.3, 12022.5, or 12022.53.

1 (5) The defendant has been convicted in the present case or
2 cases of committing an offense specified in subdivision (c)
3 against more than one victim.

4 (6) The defendant engaged in the tying or binding of the
5 victim or another person in the commission of the present
6 offense.

7 (7) The defendant administered a controlled substance to the
8 victim by force, violence, or fear in the commission of the
9 present offense in violation of Section 12022.75.

10 (8) The defendant committed the present offense in violation
11 of Section 264.1, subdivision (d) of Section 286, or subdivision
12 (d) of Section 288a, and in the commission of that offense, any
13 person committed any act described in paragraph (1) (2), (3), (4),
14 (6) or (7) of this subdivision.

15 (f) If only the minimum number of circumstances specified in
16 subdivision (d) or (e) that are required for the punishment
17 provided in subdivision (a) or (b) to apply have been pled and
18 proved, that circumstance or those circumstances shall be used as
19 the basis for imposing the term provided in subdivision (a) or (b),
20 whichever is greater, rather than being used to impose the
21 punishment authorized under any other provision of law, unless
22 another provision of law provides for a greater penalty or the
23 punishment under another provision of law can be imposed in
24 addition to the punishment provided by this section. However, if
25 any additional circumstance or circumstances specified in
26 subdivision (d) or (e) have been pled and proved, the minimum
27 number of circumstances shall be used as the basis for imposing
28 the term provided in subdivision (a), and any other additional
29 circumstance or circumstances shall be used to impose any
30 punishment or enhancement authorized under any other law.

31 (g) Notwithstanding any other provision of law, the court shall
32 not strike any allegation, admission, or finding of any of the
33 circumstances specified in subdivision (d) or (e) for any person
34 who is subject to this section.

35 (h) Notwithstanding any other provision of law, probation
36 shall not be granted to, nor shall the execution or imposition of
37 sentence be suspended for, any person who is subject to
38 punishment under this section.

39 (i) For any offense specified in paragraphs (1) to (7), inclusive,
40 of subdivision (c), the court shall impose a consecutive sentence

1 for each offense that results in a conviction under this section if
2 the crimes involved separate victims, or involve the same victim
3 on separate occasions as defined in subdivision (d) of Section
4 667.6.

5 (j) The penalties provided in this section shall apply only if the
6 existence of any circumstance specified in subdivision (d) or (e)
7 is alleged in the accusatory pleading and either admitted by the
8 defendant in open court or found to be true by the trier of fact.

9 SEC. 8. Section 667.71 of the Penal Code is amended to read:

10 667.71. (a) For the purpose of this section, a habitual sexual
11 offender is a person who has been previously convicted of one or
12 more of the offenses specified in subdivision (c) and who is
13 convicted in the present proceeding of one of those offenses.

14 (b) A habitual sexual offender is punishable by imprisonment
15 in the state prison for 25 years to life.

16 (c) This section shall apply to any of the following offenses:

17 (1) Rape, in violation of paragraph (2) of subdivision (a) of
18 Section 261.

19 (2) Rape, in violation of paragraph (1) of subdivision (a) of
20 Section 262.

21 (3) Rape, in violation of Section 264.1.

22 (4) Rape, spousal rape, or sexual penetration in violation of
23 subdivision (a) or (b) of Section 288.

24 (5) A lewd or lascivious act, in violation of subdivision (a) of
25 Section 289.

26 (6) Continuous sexual abuse of a child in violation of Section
27 288.5.

28 (7) Sodomy, in violation of subdivision (c) or (d) of Section
29 286.

30 (8)

31 Oral copulation in violation of subdivision (c) or (d) of Section
32 288a.

33 (9) Kidnapping, in violation of subdivision (b) of Section 207.

34 (10) Kidnapping, in violation of former subdivision (d) of
35 Section 208 (kidnapping to commit specified sex offenses).

36 (11) Kidnapping in violation of subdivision (b) of Section 209
37 with the intent to commit rape, spousal rape, oral copulation, or
38 sodomy or sexual penetration in violation of Section 289.

39 (12) Aggravated sexual assault of a child, in violation of
40 Section 269.

1 (13) An offense committed in another jurisdiction that
2 includes all the elements of an offense specified in this
3 subdivision.

4 (d) Notwithstanding any other provision of law, the court shall
5 not strike any allegation, admission, or finding of any prior
6 conviction specified in subdivision (c) for any person who is
7 subject to punishment under this section.

8 (e) Notwithstanding any other provision of law, probation
9 shall not be granted to, nor shall the execution or imposition of
10 sentence be suspended for, any person who is subject to
11 punishment under this section.

12 (f) This section shall apply only if the defendant's status as a
13 habitual sexual offender is alleged in the accusatory pleading,
14 and either admitted by the defendant in open court, or found to be
15 true by the trier of fact.

16 SEC. 9. Section 3000 of the Penal Code is amended to read:

17 3000. (a) (1) The Legislature finds and declares that the
18 period immediately following incarceration is critical to
19 successful reintegration of the offender into society and to
20 positive citizenship. It is in the interest of public safety for the
21 state to provide for the supervision of and surveillance of
22 parolees, including the judicious use of revocation actions, and to
23 provide educational, vocational, family and personal counseling
24 necessary to assist parolees in the transition between
25 imprisonment and discharge. A sentence pursuant to Section
26 1168 or 1170 shall include a period of parole, unless waived, as
27 provided in this section.

28 (2) The Legislature finds and declares that it is not the intent
29 of this section to diminish resources allocated to the Department
30 of Corrections for parole functions for which the department is
31 responsible. It is also not the intent of this section to diminish the
32 resources allocated to the Board of Prison Terms to execute its
33 duties with respect to parole functions for which the board is
34 responsible.

35 (3) The Legislature finds and declares that diligent effort must
36 be made to ensure that parolees are held accountable for their
37 criminal behavior, including, but not limited to, the satisfaction
38 of restitution fines and orders.

39 (4) Any finding made pursuant to Article 4 (commencing
40 with Section 6600) of Chapter 2 of Part 2 of Division 6 of the

Welfare and Institutions Code, that a person is a sexually violent predator shall not toll, discharge, or otherwise affect that person's period of parole.

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply:

(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding five years, unless in either case the parole authority for good cause waives parole and discharges the inmate from the custody of the department.

(2) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the parole authority for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to Section 667.61 or 667.71, the period of parole shall be 10 years. Upon the request of the Department of Corrections, and on the grounds that the paroled inmate may pose a substantial danger to public safety, the Board of Prison Terms shall conduct a hearing to determine if the parolee shall be subject to a single additional five-year period of parole. The board shall conduct the hearing pursuant to the procedures and standards governing parole revocation. The request for parole extension shall be made no less than 180 days prior to the expiration of the initial five-year period of parole.

1 (4) The parole authority shall consider the request of any
2 inmate regarding the length of his or her parole and the
3 conditions thereof.

4 (5) Upon successful completion of parole, or at the end of the
5 maximum statutory period of parole specified for the inmate
6 under paragraph (1), (2), or (3), as the case may be, whichever is
7 earlier, the inmate shall be discharged from custody. The date of
8 the maximum statutory period of parole under this subdivision
9 and paragraphs (1), (2), and (3) shall be computed from the date
10 of initial parole and shall be a period chronologically determined.
11 Time during which parole is suspended because the prisoner has
12 absconded or has been returned to custody as a parole violator
13 shall not be credited toward any period of parole unless the
14 prisoner is found not guilty of the parole violation. However, the
15 period of parole shall be subject to the following:

16 (A) In no case, except as provided in Section 3064, may a
17 prisoner subject to three years on parole be retained under parole
18 supervision or in custody for a period longer than four years from
19 the date of his or her initial parole.

20 (B) In no case, except as provided in Section 3064, may a
21 prisoner subject to five years on parole be retained under parole
22 supervision or in custody for a period longer than seven years
23 from the date of his or her initial parole.

24 (C) In no case, except as provided in Section 3064, may a
25 prisoner subject to 10 years on parole be retained under parole
26 supervision or in custody for a period longer than 15 years from
27 the date of his or her parole.

28 (6) The Department of Corrections shall meet with each
29 inmate at least 30 days prior to his or her good time release date
30 and shall provide, under guidelines specified by the parole
31 authority, the conditions of parole and the length of parole up to
32 the maximum period of time provided by law. The inmate has the
33 right to reconsideration of the length of parole and conditions
34 thereof by the parole authority. The Department of Corrections or
35 the Board of Prison Terms may impose as a condition of parole
36 that a prisoner make payments on the prisoner's outstanding
37 restitution fines or orders imposed pursuant to subdivision (a) or
38 (c) of Section 13967 of the Government Code, as operative prior
39 to September 28, 1994, or subdivision (b) or (f) of Section
40 1202.4.

1 (7) For purposes of this chapter, the Board of Prison Terms
2 shall be considered the parole authority.

3 (8) The sole authority to issue warrants for the return to actual
4 custody of any state prisoner released on parole rests with the
5 Board of Prison Terms, except for any escaped state prisoner or
6 any state prisoner released prior to his or her scheduled release
7 date who should be returned to custody, and Section 3060 shall
8 apply.

9 (9) It is the intent of the Legislature that efforts be made with
10 respect to persons who are subject to subparagraph (C) of
11 paragraph (1) of subdivision (a) of Section 290 who are on parole
12 to engage them in treatment.

13 SEC. 10. Section 3000.7 is added to the Penal Code, to read:

14 3000.7. (a) Every inmate who has been convicted, on or after
15 January 1, 2005, of any felony violation that is a registerable sex
16 offense pursuant to Section 290.46, or any attempt to commit any
17 of the those offenses, and who committed to prison and release
18 on parole pursuant to Section 3000 or 3000.1, shall be monitored
19 by a Global Positioning System for the term of his or her parole,
20 or for the duration or any remaining part thereof.

21 (b) Any inmate released on parole pursuant to this section
22 shall be required to pay for the costs associated with the
23 monitoring by a Global Positioning System. However, the
24 Department of Corrections shall waive any or all of that payment
25 upon a finding of an inability to pay. The department shall
26 consider any remaining amounts the inmate has been ordered to
27 pay in fines, assessments and restitution fines, fees, and orders,
28 and shall give priority to the payment of those items before
29 requiring that the inmate pay for the Global Positioning
30 monitoring. No inmate shall be denied parole on the basis of his
31 or her inability to pay for those monitoring costs.

32 SEC. 11. Section 3001 of the Penal Code is amended to read:

33 3001. (a) Notwithstanding any other provision of law, when
34 any person referred to in paragraph (1) of subdivision (b) of
35 Section 3000 who was not imprisoned for committing a violent
36 felony, as defined in subdivision (c) of Section 667.5, has been
37 released on parole from the state prison, and has been on parole
38 continuously for one year since release from confinement, within
39 30 days, that person shall be discharged from parole, unless the
40 Department of Corrections recommends to the Board of Prison

1 Terms that the person be retained on parole and the board, for
2 good cause, determines that the person will be retained.
3 Notwithstanding any other provision of law, when any person
4 referred to in paragraph (1) of subdivision (b) of Section 3000
5 who was imprisoned for committing a violent felony, as defined
6 in subdivision (c) of Section 667.5, has been released on parole
7 from the state prison for a period not exceeding three years and
8 has been on parole continuously for two years since release from
9 confinement, or has been released on parole from the state prison
10 for a period not exceeding five years and has been on parole
11 continuously for three years since release from confinement, the
12 department shall discharge, within 30 days, that person from
13 parole, unless the department recommends to the board that the
14 person be retained on parole and the board, for good cause,
15 determines that the person will be retained. The board shall make
16 a written record of its determination and the department shall
17 transmit a copy thereof to the parolee.

18 (b) Notwithstanding any other provision of law, when any
19 person referred to in paragraph (2) or (3) of subdivision (b) of
20 Section 3000 has been released on parole from the state prison,
21 and has been on parole continuously for three years since release
22 from confinement or since extension of parole, the board shall
23 discharge, within 30 days, the person from parole, unless the
24 board, for good cause, determines that the person will be retained
25 on parole. The board shall make a written record of its
26 determination and the department shall transmit a copy thereof to
27 the parolee.

28 (c) When any person referred to in paragraph (3) of
29 subdivisions (b) of Section 3000 has been released on parole and
30 has been on parole continuously for six years since release from
31 confinement, the board shall within 30 days, discharge the person
32 from parole, unless the board, for good cause, determines that the
33 person should be retained on parole. The board shall make a
34 written record of its determination and the department shall
35 transmit a copy thereof to the parolee.

36 (d) In the event of a retention on parole, the parolee shall be
37 entitled to a review by the parole authority each year thereafter
38 until the maximum statutory period of parole has expired.

39 (e) The amendments to this section made during the 1987-88
40 Regular Session of the Legislature shall only be applied

1 prospectively and shall not extend the parole period for any
2 person whose eligibility for discharge from parole was fixed as
3 of the effective date of those amendments.

4 SEC. 12. Section 6600 of the Welfare and Institutions Code is
5 amended to read:

6 6600. As used in this article, the following terms have the
7 following meanings:

8 (a) (1) “Sexually violent predator” means a person who has
9 been convicted of a sexually violent offense against two or more
10 victims, or if one victim was under 14 years of age at the time of
11 the offense and the crime was predatory as defined in this
12 section, and who has a diagnosed mental disorder that makes the
13 person a danger to the health and safety of others in that it is
14 likely that he or she will engage in sexually violent criminal
15 behavior.

16 (2) For purposes of this subdivision any of the following shall
17 be considered a conviction for a sexually violent offense:

18 (A) A prior or current conviction that resulted in a determinate
19 prison sentence for an offense described in subdivision (b).

20 (B) A conviction for an offense described in subdivision (b)
21 that was committed prior to July 1, 1977, and that resulted in an
22 indeterminate prison sentence.

23 (C) A prior conviction in another jurisdiction for an offense
24 that includes all of the elements of an offense described in
25 subdivision (b).

26 (D) A conviction for an offense under a predecessor statute
27 that includes all of the elements of an offense described in
28 subdivision (b).

29 (E) A prior conviction for which the inmate received a grant of
30 probation for an offense described in subdivision (b).

31 (F) A prior finding of not guilty by reason of insanity for an
32 offense described in subdivision (b).

33 (G) A conviction resulting in a finding that the person was a
34 mentally disordered sex offender.

35 (3) Conviction of one or more of the crimes enumerated in this
36 section shall constitute evidence that may support a court or jury
37 determination that a person is a sexually violent predator, but
38 shall not be the sole basis for the determination. The existence of
39 any prior convictions may be shown with documentary evidence.
40 The details underlying the commission of an offense that led to a

1 prior conviction, including a predatory relationship with the
2 victim, may be shown by documentary evidence, including, but
3 not limited to, preliminary hearing transcripts, trial transcripts,
4 probation and sentencing reports, and evaluations by the State
5 Department of Mental Health. Jurors shall be admonished that
6 they may not find a person a sexually violent predator based on
7 prior offenses absent relevant evidence of a currently diagnosed
8 mental disorder that makes the person a danger to the health and
9 safety of others in that it is likely that he or she will engage in
10 sexually violent criminal behavior.

11 (4) The provisions of this section shall apply to any person
12 against whom proceedings were initiated for commitment as a
13 sexually violent predator on or after January 1, 1996.

14 (b) “Sexually violent offense” means the following acts when
15 committed by force, violence, duress, menace, or fear of
16 immediate and unlawful bodily injury on the victim or another
17 person, and that are committed on, before, or after the effective
18 date of this article and result in a conviction or a finding of not
19 guilty by reason of insanity, as provided in subdivision (a): a
20 felony violation of paragraph (2) of subdivision (a) of Section
21 261, paragraph (1) of subdivision (a) of Section 262, Section
22 264.1, subdivision (a) or (b) of Section 288, or subdivision (a) of
23 Section 289 of the Penal Code, or sodomy or oral copulation in
24 violation of Section 286 or 288a of the Penal Code or any felony
25 violation of Section 207 or 209 of the Penal Code committed
26 with the intent to commit an offense set forth in Section 261,
27 262, 264.1, 286, 288, 288a, or 289 of the Penal Code.

28 (c) “Diagnosed mental disorder” includes a congenital or
29 acquired condition affecting the emotional or volitional capacity
30 that predisposes the person to the commission of criminal sexual
31 acts in a degree constituting the person a menace to the health
32 and safety of others.

33 (d) “Danger to the health and safety of others” does not
34 require proof of a recent overt act while the offender is in
35 custody.

36 (e) “Predatory” means an act is directed toward a stranger, a
37 person of casual acquaintance with whom no substantial
38 relationship exists, or an individual with whom a relationship has
39 been established or promoted for the primary purpose of
40 victimization.

1 (f) “Recent overt act” means any criminal act that manifests a
2 likelihood that the actor may engage in sexually violent predatory
3 criminal behavior.

4 (g) Notwithstanding any other provision of law and for
5 purposes of this section, no more than one prior juvenile
6 adjudication of a sexually violent offense may constitute a prior
7 conviction for which the person received a determinate term if all
8 of the following applies:

9 (1) The juvenile was 16 years of age or older at the time he or
10 she committed the prior offense.

11 (2) The prior offense is a sexually violent offense as specified
12 in subdivision (b). Notwithstanding Section 6600.1, only an
13 offense described in subdivision (b) shall constitute a sexually
14 violent offense for purposes of this subdivision.

15 (3) The juvenile was adjudged a ward of the juvenile court
16 within the meaning of Section 602 because of the person’s
17 commission of the offense giving rise to the juvenile court
18 adjudication.

19 (4) The juvenile was committed to the Department of the
20 Youth Authority for the sexually violent offense.

21 (h) A minor adjudged a ward of the court for commission of
22 an offense that is defined as a sexually violent offense shall be
23 entitled to specific treatment as a sexual offender. The failure of
24 a minor to receive that treatment shall not constitute a defense or
25 bar to a determination that any person is a sexually violent
26 predator within the meaning of this article.

27 SEC. 13. No reimbursement is required by this act pursuant
28 to Section 6 of Article XIII B of the California Constitution
29 because the only costs that may be incurred by a local agency or
30 school district will be incurred because this act creates a new
31 crime or infraction, eliminates a crime or infraction, or changes
32 the penalty for a crime or infraction, within the meaning of
33 Section 17556 of the Government Code, or changes the
34 definition of a crime within the meaning of Section 6 of Article
35 XIII B of the California Constitution.